

**Reconsideration of a Social Security Denial:  
The Ignored Appeal**  
By Jacques Chambers

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Statistics show that over half of all applicants for Social Security disability benefits, both SSDI and SSI, are turned down initially. Most claims that advance to the Administrative Law Judge at a Hearing are approved at that level. The difficulty is that it is often 18 months to two years from the initial application before it gets to the Hearing level.

Fortunately, in most parts of the country, there is a level of appeal between the initial application and the Administrative Hearing, the Reconsideration. The Reconsideration appeal allows a claimant a second chance at the analyst level.

It may seem discouraging to learn that over 85% of Reconsideration appeals uphold the denial; however, there are reasons for that. Most attorneys discourage spending time on Reconsiderations. Also, many who don't work with attorneys will submit the Reconsideration paperwork but not add any new medical documentation or other support for their claim. Social Security will NOT change their denial without some new medical information upon which to base their reversal.

There are a few areas of the country where Social Security is using a pilot program which eliminates the Reconsideration level of appeal. This is discussed at the end of this article.

### **Reconsideration**

The appeal process starts when you receive the denial letter from Social Security. *The letter is also* – and that date starts the clock for the first level of appeal – *the Reconsideration*.

Social Security requires that the documents for Reconsideration be filed within sixty (60) days after receiving your Notice of Denial. They assume you got the letter five (5) days after it was dated, so you actually have sixty-five (65) days to file the appeal. Appeals filed later than sixty-five days after the date of the denial letter must include a “reasonable” explanation as to why the appeal is being filed late.

We recommend that the first step of your appeal is to take a calendar and count off sixty days so you know exactly when the appeal must be postmarked. In our office, we tend to leave the extra five days off the deadline so there is a cushion. The reason for watching the deadline so closely is to make sure you have plenty

of time to follow up on requests for additional medical records from your medical providers.

*To have your claim reconsidered, you must submit the three forms below plus new documentation:*

- **Reconsideration Disability Report (SSA-3441-F6)** – This form consists of a series of questions that allow you to provide any new or additional information about your medical condition and to list any medical providers whose records weren't used in the initial decision.
- **Request for Reconsideration (SSA-561-U2)** – This is the actual request for review; however, it can practically guarantee another denial if you aren't careful. The form gives you three lines on which to explain why you don't agree with the denial. I have never seen a denial overturned because of three lines of information.
- **Authorization to Disclose Information to the Social Security Administration (SSA-827)** – These are the same medical releases you signed with the initial application. They again want several copies (one for each physician plus a couple of extras) signed and not dated.
- **Additional medical documentation that supports your claim.**  
*Note: I have never seen an approval based on just the first three forms.*

To get your denial changed to an approval you must write "See attached documents" on the Request form and submit with those forms:

- Medical records that show your symptoms are more severe than the original medical records stated;
- New medical records and test results that provide more objective proof of your condition;
- Documentation that shows your condition meets one of the Listings of Impairments used by Social Security;
- A narrative by your treating physician stating not only that you are disabled but elaborating on everything used to arrive at that conclusion;
- A narrative by your treating physician giving a rebuttal to the Consultative Exam; and,
- Any other documentation that supports your claim, such as third party testimony, symptom diaries, etc.

Sixty-five days is not a lot of time, so it is necessary to work quickly to obtain all the necessary documentation to overturn your denial. Start with examining the denial letter. Although it appears to be a form letter, it really contains information important to the preparation of your appeal.

First, review the denial letter. Much of it will not be tremendously helpful in letting you know what it will take to get an approval, however, there will be some information you should look for:

- The letter will list the medical records they received and used to make their decision. What is missing? Did they miss one of the specialists? Your therapist? What is not on their list that would have supported your claim? Are there additional records created after the date received that could help your claim?
- The letter will also state whether they believe you are able to do your old job or whether they believe there are other jobs you can do although you can't do your old job,. If you can't do your old job, then all you have to show is that there are no other jobs you can do so you should focus on your inability to hold any type of job, including a sedentary job such as answering phones or doing desk work.

If geographically convenient, call your local Social Security office and make an appointment to review your file. You will be able to see exactly which records were received, plus you will be able to see the internal notes and summaries that will give you a good idea of how they arrived at their denial and what you must focus on to obtain an approval.

If you had a Consultative Exam from one of their doctors, it is very important that you get a copy of that report for your doctor to review and reply to.

When preparing your Reconsideration appeal, start with the Listing of Impairments and the medical records you will need to show how your symptoms prevent you from doing any kind of work. (See [Getting Disability Benefits under Social Security with HCV](#) in the Benefits Archives of this site.) Assemble your documentation and submit it with the required Reconsideration forms.

It is recommended that you provide a cover letter that outlines the records you are submitting and what they include that supports your claim for disability.

**Don't take the denial personally.** Social Security is not saying that you are not disabled; they are not saying you are able to work; and they are certainly not saying that your symptoms don't exist. They are examining medical records, which are not always the most complete or easy to read. The people who review your claim have certain steps they must follow and certain information they must find. If they don't find it, they have no choice but to deny your claim. If you work with the Analyst handling your reconsideration appeal, you can frequently provide her with the information she needs to approve your claim.

Once you submit your Request for Reconsideration and accompanying documentation, the process is very similar to that used with the initial application. (See [Helping Your Social Security Claim through the System](#) in the Benefits Archives of this site) Your claim will be assigned to a Claims or Disability Analyst, and that person will review all the medical information and determine whether or not you are disabled. Just as with the initial application, the Analyst may request

additional medical records or schedule you to have a Consultative Examination by one of their doctors.

### **Disability Redesign Prototype**

This pilot program was launched in an effort to reduce the amount of time it takes to appeal initial denials. While the results of this program have been mixed enough that it has not been expanded, it is still followed in those areas where it was first launched.

This pilot program is currently used in the states of Alabama, Alaska, Colorado, Louisiana, Michigan, Missouri, New Hampshire, and Pennsylvania. It is also being used in parts of New York, primarily Albany and Brooklyn, and certain Social Security offices in the Los Angeles, California area: Metro (Alhambra, Burbank, Chatsworth, Glendale, Glendora, Tujunga, University Village, and Watts), Sierra West (Crenshaw, Culver City, Inglewood, and Torrance), and South Coast (Compton, Huntington Park, Norwalk, and Whittier).

In these areas, the Reconsideration stage of appeals is eliminated completely. Instead, the Social Security Representative is to contact you, inform you that the medical record as examined does not support a claim for disability, and give you the opportunity to add additional documentation and medical evidence to the file before it is officially denied.